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In re Application of	:	DECISION ON
Smith X. Francis	:	
Application No.: 10/544,151	:	
PCT No.: PCT/US01/46344	:	
Int. Filing Date: 08 November 2001	:	PETITION UNDER
Priority Date: 08 November 2000	:	
Attorney's Docket No.: 3009108-US01	:	
For: Improved Ophthalmic and Contact Lens	:	
Solutions Containing Simple Saccharides As	:	
Preservative Enhancers	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 01 August 2005. Applicant's Deposit Account 50-3010 is being charged \$130.00 for filing an executed declaration after the date of commencement of the national stage (37 CFR 1.492(h)) as indicated in the transmittal letter.

**BACKGROUND**

On 08 November 2001, this international application was filed, claiming an earliest priority date of 08 November 2000.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 May 2003. This international application became abandoned with respect to the United States at midnight on 05 May 2003 for failure to pay the required basic national fee.

On 01 August 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, an executed declaration, and the petition fee.

**DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

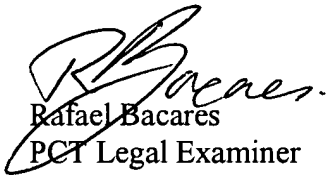
Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

### **DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **01 August 2005**.



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